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Ditthavong Mori & Steiner, P.C.
918 Prince Street
Alexandria, VA 22314

EXAMINER

KELLEY, STEVEN SHAUN

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/580,677
Filing Date: March 08, 2007
Appellant(s): VERMOLA ET AL.

Phouphanomketh Ditthavong

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 9, 2011 appealing from the Office action mailed December 10, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:
18-21, 24, 25, 27-36, 38, 39 and 42-49

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18, 20, 24, 25, 27, 29-33, 35, 38, 39, 42 and 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 7,065,333 to Engstrom (hereinafter "Engstrom") in view of U.S. Patent 6,122,263 to Dahlin et al. (hereinafter "Dahlin") and U.S. Patent 7,062,303 to Guterman (hereinafter "Guterman").

Regarding claim 18, Engstrom teaches a method of receiving data comprising: receiving data from a broadcast network; processing the received data; outputting the processed data (see the Summary of Invention section and the description of Fig. 4 in column 8, which teaches the structures for receiving (tuners 452 and 453), processing (audio interface 454) and outputting broadcast data (speaker (not shown) as described in column 8, lines 26-27); in response to an interruption, proceeding in a first resource saving mode by continuing to receive data from the broadcast network but not processing and not outputting said received data (see steps 802-806 in Fig. 8, which teach that when the mobile terminal receives an incoming call while receiving a

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broadcast, the broadcast may be interrupted and the broadcast data may be stored for later playback. As the broadcast is “interrupted”, the stored broadcast audio and/or video data is not processed and is not output, as recited).

Regarding the recited feature of “proceeding in a second resource saving mode in which no data is received from the broadcast network, after operating in said first resource saving mode for a first predetermined time period”, Dahlin teaches a mobile radio terminal 106, which includes (and switches between) cellular control and transceiver circuitry 109 and Digital Audio Broadcast (DAB) receiver circuitry subsection 107. Column 6, lines 12-37 of Dahlin describe the process by which the DAB receiver subsection 107 is turned off, which teaches that in one embodiment “alternatively, the radio terminal control section 109 can employ time-out circuitry (not explicitly shown) that switches off the receiver section (107) under certain conditions after a predetermined amount of time.” The “timeout” period described in Dahlin is the recited “first predetermined time period” and turning off the receiver in Dahlin would also meet the limitation of “proceeding in a second resource saving mode in which no data is received from the broadcast network”.

Therefore, as Dahlin teaches the conventionality of turning off a receiver after a predetermined amount of time (which can be based on certain conditions), it would have been obvious to one of ordinary skill in the art to modify Engstrom with the ability to “timeout a receiver” (based on a condition such as an interruption), in order to save mobile device resources and “proceed in a second resource saving mode in which no data is received from the broadcast network”, as is conventional.

Regarding the feature of “wherein after operating in said second resource saving mode for a second predetermined time period, an application for outputting the processed data is deactivated”, Guterman is added to address this feature.

In an analogous art, Guterman teaches methods for performing power conservation in a mobile device by progressively powering down. Guterman teaches in column 2 that wireless device 10 includes a baseband processor 12, a general purpose processor 24. Column 2, lines 19-29 teach that “both the baseband processor 12 and the general purpose processor 24 may have software for implementing a power saving feature. To do so, each processor 12 or 24 *progressively transitions to one or more lower power consumption states*. A variety of triggers may be detected to control the transition between power consumption states. In one embodiment, these triggers are based on inactivity or activity. Namely, inactivity causes a processor 12 or 24 to transition to a lower power consumption state and activity causes a processor 12 or 24 to power back to a higher power consumption state.” Additionally, column 1, lines 29-36, of Guterman teach “Generally, processor-based systems progressively power down. Some processor-based systems have several power consumption states. Based on a triggering of event such as lack activity, the system may power down to a lower power consumption state. *After a period of continued inactivity, a system may power down to an even lower power consumption state.*” Columns 2-3 of Guterman also teaches that the communications subsystems and software application subsystems are interrelated (and may be included in the same or different integrated circuits) and are powered down “to coordinate power saving”.

Therefore, as Guterman teaches “progressively powering down” software applications (which teaches and/or suggests progressively longer timeout periods (recited “second predetermined time period”)), and as Dahlin also teaches using a timeout period to power down, it would have been obvious to one of ordinary skill in the art to “deactivate the applications” of Engstrom/Guterman “after a second predetermined period of time”, in view of Dahlin/Guterman’s teachings of progressively powering down to lower power consumption states, as is conventional.

Regarding the newly recited feature in claim 18 (which was previously recited in claim 23), which recites “wherein the step of receiving data from the broadcast network comprises filtering the received data in order to discard unwanted data”, see for example, column 7 and see Fig. 6 as described in column 9 of Engstrom, which teaches that the tuners 452 and 453 “scan for user preference broadcasts” where the user preferences “comprise filtering the received data” as a user preference broadcast interrupts another broadcast, in order to discard unwanted (non-user preference broadcasts) data, as recited.

(10) Response to Argument

In response to the Examiner's points in the Final rejection explaining how the tuners of Engstrom perform the recited "filtering of data" step (reproduced on the bottom of page 9 of the Appeal Brief), Appellant's provide the following remarks on page 10:

"The Appellants respectfully submit that the Examiner's assertions are incorrect. While various radio signals at various frequencies may be travelling through the atmosphere at any given time and contacting various objects, such as the antenna (450) of Engstrom, the Appellants submit that the antenna (450) by itself is not receiving data in the manner claimed from all of those radio signals, anymore than a rock or a tree or a human or a frog can be considered to be receiving such data from all of those radio signals. Under this interpretation, it logically follows that any and all objects can be said to be receiving data from all radio signals at various frequencies simultaneously, based solely upon their contact with such radio waves. The Appellants submit that such an interpretation the recited language would clearly not be reasonable to one of ordinary skill in the art. The receipt of the data in Engstrom occurs through the operation of the tuners, which are tuned to a particular frequency in order to receive such data via the

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aid of the antenna. Thus, the Appellants submit that there is no instance in which both wanted and unwanted data is simultaneously received by the antenna/tuner of Engstrom, and then unwanted data is filtered out and discarded.”

Based on these remarks it appears that Appellant has misinterpreted one of the Examiners statements to mean that “antenna 450 will receive any and all signals”, which is not the meaning of the Examiner’s statement that the “*signals of all the frequencies received by antenna 450 will be input into tuners 452 and 453*”.

In other words, only certain frequencies of signals will be received by antenna 450 (and all of these received signals will be input into the tuners 452 and 453). For example, as Engstrom is designed to receive AM, FM, television and digital broadcasting signals, the antenna 450 will receive these signals and as the antenna 450 does not (and cannot) perform any filtering of it’s received signals, *the signals of all the frequencies received by antenna 450 will be input into tuners 452 and 453*.

In response to Appellant’s point that “there is no instance in which both wanted and unwanted data is simultaneously received by the antenna/tuner of Engstrom, and then unwanted data is filtered out and discarded”, it is noted that there is only one antenna (450) in Engstrom, which provides inputs to the two tuners 452 and 453, where tuners 452 and 453 are simultaneously tuned to (play or record) different broadcasting programs. Therefore, the first tuner 452 would receive signals from antenna 450 which

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include both a first and second broadcast programs, where tuner 452 would tune to (“filter”) these signals to play the first program and not process the second program, which performs the recited “filtering of data step”, as the first program data is processed and the second program data is discarded, as recited. Similarly, tuner 453 would receive the signals from antenna 450 which include both the first and second broadcast programs, where tuner 453 would “filter” these signals to play the second program and not process the first program.

Accordingly, Applicant’s arguments are not persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Steven S. Kelley

/Steven S. Kelley/

Patent Examiner, Art Unit 2617

Conferees:

/LESTER KINCAID/

Supervisory Patent Examiner, Art Unit 2617

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617